unincorporated union should be held to be, in legal effect, a contract no part of which can be enforced. Many American unions, however, are incorporated,[15] and by corporation law a by-law which is in restraint of trade is merely void and does not render the corporation illegal.[16] Our courts generally apply the same rule to unincorporated unions. The question usually arises in suits brought by those who have been improperly expelled from labor unions.[17] The courts rarely go into the question of the legality of the by-laws, except to decide that a member expelled for violating an illegal by-law can be reinstated.[18] Thus the courts distinguish between the association and its illegal regulations. At least one decision, however, refuses reinstatement on the ground that the union is an illegal body.[19] This decision may be technically correct, but, according to the American view of restraint of trade, the main objects of a union are rarely illegal, and therefore, even by the English doctrine, the union itself would be held a legal body. Furthermore, the suggested distinction between incorporated and unincorporated unions seems undesirable.

RECENT CASES.

AGENCY — NATURE AND INCIDENTS OF RELATION — AGENT ACTING FOR TWO PRINCIPALS: EFFECT OF HIS MISREPRESENTATIONS. — The defendant authorized his agent to sell real estate on commission, and the latter sold it to the plaintiff, acting also as her agent in the transaction. Both parties consented to this double agency; but the plaintiff's signature was obtained by the fraudulent misrepresentations of the agent as to the terms of the contract. *Held*, that the plaintiff cannot rescind. *Austin* v. *Rupe*, 141 S. W. 547 (Tex., Ct. Civ. App.).

An agent may represent both parties in a transaction between them, if they have full knowledge of the circumstances. *Adams Mining Co.* v. *Senter*, 26 Mich. 73. But this relation is looked upon with suspicion, and if he is subsequently fraudulent, there is some authority for saying that the contract may be rescinded by either principal. See *New York Life Ins. Co.* v. *Fletcher*, 117 U. S. 519, 529, 6 Sup. Ct. 837, 841. The same result may be reached otherwise here. Acts of the agent done in the scope of each employment must be attributed to each principal severally, and an action for the acts imputed to one would be barred by the same acts imputed to the plaintiff. *Murdock* v. *Clarke*, 90 Cal. 427, 27 Pac. 275; *Nevada Nickel Syndicate, Ltd.* v. *National Nickel Co.*, 96 Fed. 133, 147. *Cf. Brown* v. *St. John Trust Co.*, 71 Kan. 134, 80 Pac. 37. But where the common agent makes fraudulent misrepresentations to one principal, he cannot be acting in the scope of his authority from that principal. For the agent must be looking entirely to his own interest, or that of the other principal, in a matter in which third parties are not concerned. *Allen* v.

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[15] See Cotton Jammers' and Longshoremen's Association *v.* Taylor, 23 Tex. Civ. App. 367, 56 S. W. 553.

[16] See Inter-Ocean Pub. Co. *v.* Associated Press, 184 Ill. 438, 454, 56 N. E. 822, 826.

[17] Corregan *v.* Hay, 94 N. Y. App. Div. 71, 87 N. Y. Supp. 956.

[18] Schneider *v.* Local Union No. 60, 116 La. 270, 40 So. 700. *Cf.* Huston *v.* Rentlinger, 91 Ky. 333, 15 S. W. 867.

[19] Froelich *v.* Musicians Mutual Benefit Association, 93 Mo. App. 383. The union was held illegal at common law as well as by statute. See also Brennan *v.* United Hatters, 73 N. J. L. 729, 739, 65 Atl. 165, 169.

South Boston R. Co., 150 Mass. 200, 22 N. E. 917. See *Ryan* v. *World Mutual Life Ins. Co.*, 41 Conn. 168, 171. But *cf. Blair* v. *Baird*, 43 Tex. Civ. App. 134, 94 S. W. 116. On this ground the courts refuse to attribute the knowledge of the agent to his principal, when its concealment is to the personal interest of the agent. *American Surety Co.* v. *Pauly*, 170 U. S. 133, 18 Sup. Ct. 552. See *Kettlewell* v. *Watson*, 21 Ch. D. 685, 707. But the defendant may be liable for his agent's acts, because the misrepresentations are made to a third party. *Barwick* v. *English Joint Stock Bank*, L. R. 2 Exch. 259.

ASSIGNMENTS FOR CREDITORS — RIGHTS OF CREDITORS — PROOF OF COSTS IN JUDGMENT OBTAINED AFTER ASSIGNMENT. — After an assignment for the benefit of creditors, directing the assignee to pay "all the debts and liabilities now due or to grow due," the plaintiff recovered a judgment against the assignor for a conversion which had occurred before the assignment. *Held*, that the entire judgment, including costs and interest, is provable. *Matter of Whitney*, 146 N. Y. App. Div. 45.

The decision as to the costs should not be rested on the words "to grow due" in the assignment, since they require no wider interpretation than will make them apply to claims not yet payable, though already in existence. In the absence of express words in the assignment, only claims incurred before the assignment are provable. *Weinmann and Co.'s Estate*, 164 Pa. St. 405, 30 Atl. 389. *Cf. Dean and Son's Appeal*, 98 Pa. St. 101. The reduction to judgment, however, of a claim incurred before the assignment does not so change it as to deprive the creditor of his right to prove it. *Second National Bank* v. *Townsend*, 114 Ind. 534, 17 N. E. 116. Moreover, a judgment is conclusive on the assignee, as the privy of the debtor, with regard to the amount of the indebtedness established thereby. *Matter of Roberts*, 98 N. Y. App. Div. 155, 90 N. Y. Supp. 731; *Merchants' National Bank* v. *Hagemeyer*, 4 N. Y. App. Div. 52, 38 N. Y. Supp. 626. The only exceptions ordinarily allowed are in cases of judgments obtained by fraud or collusion. See *Ludington's Petition*, 5 Abb. N. C. (N. Y.) 307, 322. But see *Garland* v. *Rives*, 4 Rand. (Va.) 282, 316. These being absent in the present case, the result reached would seem to be correct. A contrary view, however, has been taken in at least one state. *Assigned Estate of Jamison*, 163 Pa. St. 143, 29 Atl. 1001. But *cf. Pittsburgh and Steubenville R. Co.'s Appeal*, 2 Grant (Pa.) 151.

ATTORNEYS — RELATION BETWEEN ATTORNEY AND CLIENT — COLLUSIVE DISCONTINUANCE BY CLIENT. — A., having employed B. for a contingent fee to sue C., made a collusive settlement with C., after a verdict for the plaintiff and motion for a new trial, to defeat B.'s fee. B. brought a bill in equity to restrain C. from using the agreement to procure a dismissal of the action. *Held*, that the bill will not lie, since in the trial at law B. can proceed to final judgment for his own benefit. *Burkhart* v. *Scott*, 72 S. E. 784 (W. Va.).

A valid contract for the payment of a contingent fee does not give the attorney such an interest in the cause of action as to prevent the plaintiff from compromising the suit. *Coughlin* v. *New York, etc. R. Co.*, 71 N. Y. 443; *Wright* v. *Wright*, 70 N. Y. 96. It is also clear that although an attorney has a lien for his costs on a judgment that has been obtained, he has none on the cause of action itself. *Hanna* v. *Island Coal Co.*, 5 Ind. App. 163, 31 N. E. 846. See *Sandberg* v. *Victor Gold and Silver Mining Co.*, 18 Utah 66, 76, 55 Pac. 74, 77. Where by statute a lien is given on the cause of action, it has been held that, upon the settlement of a case, the attorney, by obtaining leave of court, can prosecute the suit to judgment for his own benefit. *Manning* v. *Manning*, 61 Ga. 137; *Coleman* v. *Newsome*, 58 Ga. 132. At common law, however, this right appears to be limited to cases of collusive settlements. See *Randall* v. *Van Wagenen*, 115 N. Y. 527, 531–532. In these cases, the right would seem